

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

IN RE: ETHICON INC.,	:	
PELVIC REPAIR SYSTEM PRODUCTS	:	MDL No. 2327
LIABILITY LITIGATION	:	
	:	Judge Joseph R. Goodwin

**UNOPPOSED MOTION FOR QUALIFIED PROTECTIVE ORDER  
CONCERNING PRODUCTION OF CERTAIN INFORMATION MAINTAINED  
BY THIRD-PARTY PAYORS**

Laminack, Pirtle & Martines, L.L.P. (“Plaintiffs’ Counsel”), on behalf of certain plaintiffs in this MDL 2327 and other Claimants, as defined in, and listed on Exhibits A-D to, a confidential Master Settlement Agreement (“MSA”) with Defendants Ethicon, Inc., Johnson & Johnson and Ehticon, LLC ( Collectively “Ethicon”), files this Unopposed Motion for entry of a Qualified Protective Order Concerning Production of Certain Information Maintained by Third-Party Payors, as set forth in the proposed Order attached hereto.

Pursuant to the MSA, Plaintiffs’ Counsel has retained Archer Systems as Lien Resolution Administrator (“LRA”). Under the provisions of the MSA, the LRA is responsible for identifying and resolving liens and reimbursement claims that have been or may be asserted against settlement payments related to the implantation of any Ethicon Pelvic Product, as defined in the MSA, with respect to Medicare benefits provided by the federal government and also pursuant to Medicare Part C (any Medicare Advantage Plan); Medicaid liens; other governmental health care programs with statutory reimbursement or subrogation rights; and certain private insurers (collectively “Third-Party Payors”). The MSA also provides that, upon the request of Plaintiffs’ Counsel, the LRA may perform certain additional functions in connection with liens that may be asserted by other Third-Party Payors. Plaintiffs’ Counsel and

the LRA believe that receipt of certain health information maintained by Third-Party Payors is necessary for the LRA to resolve the liens. The information required by the LRA contains confidential, protected, individually identifiable health information, some of which may be protected from disclosure pursuant to the Health Insurance Portability and Accountability Act of 1996 (42 USC §1320d *et seq.*) and the regulations promulgated thereunder (45 CFR §§ 160, 164 *et seq.*) (“HIPAA”).

The attached proposed Order will allow Third-Party Payors to transmit protected health information of the Claimants directly to the LRA to assist in the resolution of asserted liens. Third-Party Payors producing HIPAA-protected information pursuant to this Order would be deemed to fall within the safe harbor of HIPAA for court-ordered production of personal health information, 45 CFR § 164.512(e)(1), and similar provisions of state law, if any. The proposed Order also provides for destruction of any protected health information produced by Third-Party Payors to the LRA at the conclusion of the administration of the settlement. Plaintiffs’ Counsel and the LRA believe that such a Qualified Protective Order is necessary to facilitate the resolution of Third-Party Payors’ liens and, therefore, respectfully requests that the Court enter the proposed Order attached hereto as Exhibit A.

DATED: May 29, 2019

RESPECTFULLY SUBMITTED,

By: /s/ Buffy K. Martines  
RICHARD N. LAMINACK  
State Bar of Texas No. 11850350  
THOMAS W. PIRTLE  
State Bar of Texas No. 16038610  
BUFFY K. MARTINES  
State Bar of Texas No. 24030311  
LAMINACK, PIRTLE & MARTINES, LLP  
5020 Montrose Boulevard, 9<sup>th</sup> Floor  
Houston, Texas 77006  
Telephone: 713-292-2750  
Facsimile: 713-292-2755

*ATTORNEYS FOR PLAINTIFFS*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 29, 2019, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Buffy K. Martines  
Buffy K. Martines